

5. Staff recommends that CVLD's request for a waiver from the requirement to have a wholesale tariff be granted. This waiver should be approved with the condition that should CVLD construct or operate interexchange facilities in Alaska or expand its intrastate service in Alaska, CVLD is required to file a wholesale tariff with the Commission for approval before the new intrastate services are provided or the facilities are placed into service. CVLD may also be required to provide a wholesale tariff in the future if another carrier requests CVLD to provide wholesale services.
6. Staff recommends that the Commission specifically require CVTC, to observe strict competitive neutrality in offering their local customers access to long distance services.

#### BACKGROUND

On November 20, 1998, CVLD filed an application for a certificate of public convenience and necessity to provide intrastate interexchange telecommunications service in the state of Alaska. CVLD proposes to provide message telephone service, 800/877/888 services, calling card services, prepaid calling card services, operator services, and discounted services in Alaska by reselling interexchange service obtained from other certificated IXCs.

On December 21, 1998, CVLD filed a supplement to complete their application for a certificate of public convenience and necessity. This filing included CVTC financial information at the request of Staff.

On January 6, 1999, the filing was noticed to the public with a closing date of February 5, 1999, for submission of comments in favor of, or in opposition to, the application. To date there has been no response to the notice.

On February 17, 1999, the filing was noticed again to the public specifically in the Valdez Star with a closing date of March 1, 1999, for submission of comments in favor of, or in opposition to, the application. This second notice was necessary after notification from the Valdez Star that the advertising order for the notice was not received until after the notice period had expired. To date there has been no response to the notice.

#### DISCUSSION

##### Fitness, Willingness, and Ability

CVLD is a corporation organized under the laws of the state of Alaska. CVLD is a wholly owned subsidiary of CVTC. CVTC is a cooperative organized under the laws of the state of Alaska and holds Certificate of Public Convenience and Necessity No. 11 authorizing it to furnish local exchange telephone services within Valdez, Glennallen, and other communities in the Copper River Basin. CVLD will have the same board members as CVTC.

CVLD proposes to furnish IXCs intrastate interexchange message telephone service, 800/877/888 services, calling card services, prepaid calling card services, operator services, and

discounted services in Alaska. CVLD states that it has no existing facilities used to provide intrastate interexchange telephone service. Its intrastate service will be wholly reliant on the in-state network of the underlying carriers and will not pass through an out-of-state switch. CVLD states that the "facilities" for which authority is requested by this application include the tariffed services of other IXC's and LEC's. Those tariffs are on file with the Commission, and the rates, terms and conditions are a matter of record.

CVLD states that it recognizes and accepts its responsibility under 3 AAC 52.380(a) to submit data necessary for the calculation of access charges for each month. CVLD states that its agreements with the underlying carriers will provide for the collection of the information required for it to submit the data.

CVLD states that it has no present plans to construct facilities within the next five years for the provision of intrastate IXC services. The application states that if CVLD should decide to construct intrastate IXC facilities, it would comply with applicable Commission rules and regulations in obtaining authorization and installing such facilities.

The application supplement consists of a copy of the 1997 Form M for CVLD's parent company, CVTC. The Form M contains a balance sheet and income statement for the most current year. CVTC's financial statement reported that as of December 31, 1997, it had Total Operating Revenues of \$7,010,952 and Total Operating Expenses of \$6,127,790, for a Net Operating Income of \$883,162. CVTC had other income and expenses of (\$614,716) for a (\$154,986) Net Margin. The consolidated Balance Sheet reported that as of December 31, 1997, CVTC had Current Assets of \$6,099,926 and Current Liabilities of \$4,470,351 for a current ratio of 1.36.

The proposed rates have been noticed with the application and the tariff revision process for non-dominant IXC carriers involves a 30 day period.

The application states that CVLD has the technical expertise and will acquire the additional resources necessary to provide intrastate IXC services. The application states that Tim Rennie, General Manager of CVTC will be responsible for the start-up activities of CVLD and Pamela Murphy, Finance/DP Manager of CVTC, will be responsible for the controller-related responsibilities associated with CVLD.

The application states that some services will be provided to CVLD by contract with affiliated entities. Further, the applicant explains that CVTC and CVLD will operate under the Operation and Support Services Agreement, which provides for the provision of various services and the sharing of personnel between the affiliated companies. The intent of this agreement is indicated to be to minimize CVLD's use of resources from CVTC to avoid cross-subsidization concerns. A copy of this agreement has been included in the application.

The agreement provides for services contracted from CVTC including but not limited to: the employment of all personnel as may be necessary to administer and carry on operation and support service for CVLD; maintenance services; customer billing and collection services; purchasing and payment services including materials, supplies, taxes, and insurance, reporting services, records and bookkeeping services. The agreement provides for CVTC to prepare

financial reports and to record the costs for providing the services to CVLD, the use of the Cost Allocation Manual (CAM), and the maintenance of separate books and records for CVLD's operations.

CVLD states that it intends to purchase transport and other services from selected facilities-based IXCs. Although CVLD did not specifically identify which services or underlying carrier it would use, it appears that there are services available which would allow CVLD to provide the proposed IXC services as a reseller.

Based on the application demonstrating that the proposed management of CVLD has considerable experience operating and managing telecommunications utilities and that its affiliate has the financial ability to support the proposed CVLD operation, Staff believes that CVLD is fit, willing, and able to provide the proposed services.

#### Conditions of Certification

CVLD states that it will be an IXC separated from its LEC affiliate operations and intends to maintain a strict separation between the entities in order to advance the policies identified by the Commission and the FCC. The filing states that CVTC will update and annually file its CAM with the Commission for its review. The application included a copy of CVTC's updated CAM. Staff has not reviewed CVTC's updated CAM as of the date of this recommendation but can see no reason to delay consideration for certification. Staff will address the CAM after the conditions for approval have been established and will make an additional Staff recommendation at that time. Further, the CAM is subject to annual review during access charge and rate proceedings.

In previous proceedings, the Commission has imposed conditions on incumbent LEC affiliated IXCs to ensure that a level playing field is maintained for all IXCs and to ensure a competitive IXC market. The Commission has granted certificates to LEC affiliated IXCs to provide intrastate long distance service subject to certain conditions to ensure the reasonable protection of the LEC's rate-payers, ensure that unreasonable cross-subsidization did not occur, and maintain a level competitive IXC playing field yet not create an unreasonable barrier to LEC affiliated IXC's entry into the IXC market. These conditions are currently being reviewed in Docket U-99-1.

To ensure that a level playing field is maintained for all IXCs and ensure a competitive IXC market, CVLD should be required to separate the day-to-day managers, marketing personnel, and customer service personnel from CVTC. In CVLD's case it is reasonable for Tim Rennie to be considered an executive manager for the CVLD operations. The separation of CVTC's marketing and customer service personnel from CVLD is appropriate because CVTC personnel have knowledge of local customer service requests and local customer information and the potential for those personnel to use that knowledge to the advantage of CVLD in the IXC market.

Staff believes that the ability to market local exchange and long distance service as a package (bundle) will provide CVTC/CVLD with an inappropriate ability to influence the market. To ensure a level competitive IXC playing field and promote competition Staff recommends that CVLD be prohibited from using CVTC's monopoly access to local customers to market CVLD services until such time as competition exists in the affiliates local exchange markets. Specifically, the bundling by CVTC, or CVLD of IXC services with LEC service and promotional marketing of IXC services by tying them to customers' use of local monopoly services is prohibited.

Based on the above, Staff recommends that the same conditions be applied to CVLD/CVTC, that were imposed on KSC, TALD, MTA-LD, OTZ-Telecom and on other LEC affiliated IXCs. Staff believes that the recommended conditions address the significant issues regarding LEC and IXC operations that relate to the applicant in this proceeding. The Commission is currently investigating in the Commission's market structure rule making docket (U-99-1) whether the conditions that have been imposed on LEC affiliated IXCs are necessary to protect the public interest, whether the Commission should promulgate regulations to implement the conditions on other than a case-by-case basis, and whether the current conditions on the various IXC/LECs are effective.

With the approval of CVLD's application, the Commission should note that, to the extent the Federal Communications Commission adopts regulations which render the conditions inconsistent with the Telecommunications Act of 1996, the Commission reserves the right to review and modify the conditions.

The conditions imposed on KSC, TALD, MTA-LD, OTZ-Telecom and on other LEC affiliated IXCs except for different company names, are the same as those delineated in recommendation section of this report.

#### Wholesale Tariff

CVLD requested a waiver of the provision of 3 AAC 52.375 requiring it to have a wholesale tariff. CVLD requested the waiver because it has no interexchange facilities and has no intention at this time to install such facilities.

Based on the above, Staff recommends that the Commission grant CVLD a waiver from the requirement to have a wholesale tariff. This waiver should be provided with the condition that should CVLD construct or operate interexchange facilities in Alaska or expand its intrastate service in Alaska, CVLD is required to file a wholesale tariff with the Commission for approval before the new intrastate services are provided or the facilities are placed into service. CVLD may also be required to provide a wholesale tariff in the future if another carrier requests CVLD to provide wholesale services.

### CONCLUSION

Staff has reviewed the application and believes that CVLD is fit, willing, and able to provide the proposed telecommunications intrastate interexchange services. Staff therefore recommends that CVLD's application and waiver request be approved with the conditions previously discussed in the recommendation section of this memo. Further, Staff recommends that CVLD be noticed that these conditions are subject to change pending further review in Docket U-99-1.

**CVTC Exhibit B**

# STATE OF ALASKA

DEPARTMENT OF COMMERCE  
COMMUNITY AND ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA

FRANK M. MURKOWSKI, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300  
ANCHORAGE, ALASKA 99501-3489  
PHONE: (907) 276-8222  
FAX: (907) 276-0100  
TTY: (907) 276-4833  
WEBSITE: [www.state.ak.us/rca/](http://www.state.ak.us/rca/)

May 3, 2006

In reply refer to: Tariff Section  
File: TABS-11  
LO #: L0500245

Tim Rennie  
General Manager  
Copper Valley Telephone Cooperative, Inc.  
P. O. Box 337  
Valdez, Alaska 99686

Dear Mr. Rennie:

On April 28, 2006, the Commission approved the Special Contract between Copper Valley Telephone Cooperative, Inc. (CVTC) and Copper Valley Long Distance (CVLD) filed on March 18, 2006 with TABS-11, subject to the following conditions:

- a) The Commission may place further conditions or limitations on the contract if good cause is shown based upon review of a complaint related to the dark fiber.
- b) Should the parties choose to extend the contract beyond the two year term, CVTC will submit this Special Contract extension for review by the Commission.

The Commission granted a waiver of certification requirements, to the extent necessary, to allow CVTC to sell interexchange service for the sole purpose of the TABS-11 contract even though the utility does not hold an interexchange certificate.

The Commission also reminds CVTC that the Commission has not addressed CVTC's proposed treatment of allocable costs. Treatment of allocable costs related to this special contract will be considered if and when a review of CVTC's rates occurs, absent earlier action by the Commission.

Enclosed is a validated copy of the Special Contract between CVTC and CVLD filed on March 18, 2006 with TABS-11. The effective date is May 2, 2006.

Enclosed are validated copies of Tariff Sheet Nos. 2.3, 2.28 and 2.28.1 filed on April 6, 2006 with TABS-11. The effective date of the tariff sheets is May 2, 2006.

BY DIRECTION OF THE COMMISSION

Sincerely,

REGULATORY COMMISSION OF ALASKA

*Juliana Wayman*

Juliana Wayman  
Chief, Tariff Section

#### Enclosures

cc: Michelle D. Barnett  
Hochman & Uhlentott, Inc.  
800 East Dimond Blvd. Ste #3-840  
Anchorage AK 99516

**CVTC Exhibit C**





DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT  
Regulatory Commission of Alaska

*Sarah Palin, Governor  
Paul Nutt, Commissioner  
Anthony A. Price, Chairman*

November 20, 2007

In reply refer to: Tariff Section  
File: TA83-11  
LO#: L0700487

Dave Dengal  
General Manager  
Copper Valley Telephone Cooperative, Inc. (CVTC)  
P. O. Box 337  
Valdez, Alaska 99686

Dear Mr. Dengal:

In its Tariff Action meeting on November 15, 2007, the Commission granted the request filed on October 2, 2007, by Copper Valley Telephone Cooperative, Inc., with TA83-11 to extend the term of the special contract between itself and Copper Valley Long Distance, Inc. for the lease of dark fiber. In TA83-11, CVTC proposed to exercise Section 13 of the special contract. Section 13 provides for the automatic renewal of the special contract on a year per year basis. The effective date of the contract extension is November 16, 2007.

BY DIRECTION OF THE COMMISSION (Commissioners Dave Harbour and Janis W. Wilson, Not Participating)

Sincerely,

REGULATORY COMMISSION OF ALASKA

Mary J. Vitone  
Chief, Tariff Section

cc: Michelle D. Barnett  
Honchen & Odenkott, Inc.  
600 East Diamond Blvd. Ste #3-640  
Anchorage AK 99515

701 W. 5th Avenue, Suite 300, Anchorage, Alaska 99501-5409  
Telephone: (907) 276-4222 Fax: (907) 276-0160 TTY: (907) 276-4533  
Website: <http://ica.alaska.gov>

**CVTC Exhibit D**

Copper Valley Long Distance, Inc.  
Circuit Revenues by Year

Year	Total Private Line Revenue	Received From CVTC	% of Revenues CVTC
2010	2,376,781.97	724,514.05	30.48%
2011	3,590,254.85	862,514.88	24.02%
2012	4,414,813.74	858,360.08	19.44%
2013	4,706,937.82	894,188.21	19.00%
2014	5,069,851.62	455,341.29	8.98%

**EXHIBIT NO. 3**

**Copper Valley Telephone Cooperative, Inc.**  
**Amended Certificates of Public Convenience and Necessity**

# Alaska Public Utilities Commission

## Certificate of Public Convenience and Necessity No. 11

Having found that the grantee of this certificate is fit, willing and able to provide the utility services applied for and that such services are required for the convenience and necessity of the public, the Alaska Public Utilities Commission, pursuant to the authority vested in it by AS 42.05, hereby issues this certificate of Public Convenience and Necessity to

**COPPER VALLEY TELEPHONE COOPERATIVE, INC.**

authorizing it to operate a public utility, as defined by AS 42.05. 701 (2) (B) for the purpose of furnishing

**TELECOMMUNICATIONS SERVICE**

**( LOCAL EXCHANGE )**

This Certificate is issued under, and subject to, the provisions of AS 42.05 and all rules, regulations and orders from time to time promulgated by the Commission governing the rates, charges, services, facilities, and practices of utility operations of the kind authorized herein.

The specific nature, scope, terms, conditions and limitations of the authority granted by this Certificate, as amended to date, are set forth in the appendix hereto and in the following order(s) of the Commission which, by this reference, are incorporated in and made a part hereof as though fully set forth herein.

Docket No.

U-82-8 (5)

Date of Order

February 4, 1983

(Chronology and service area description  
shown on attached Appendix A)

IN WITNESS THEREOF, the undersigned members of the Commission  
have executed this Certificate of Public Convenience and Necessity at  
Anchorage, Alaska on this 16th day of August 1983



Alaska Public Utilities Commission

*[Signature]*  
(CHAIRMAN)  
*[Signature]*  
(COMMISSIONER)  
*[Signature]*  
(COMMISSIONER)  
*[Signature]*  
(COMMISSIONER)  
*[Signature]*  
(COMMISSIONER)

Certificate of Public Convenience  
and Necessity No. 11 granted to

COPPER VALLEY TELEPHONE COOPERATIVE, INC.

DESCRIPTION OF SERVICE AREA:

- |    |     |     |  |
|----|-----|-----|--|
| I. | T8S | R5W | Sections: 29, 30, 31 and 32  |
|    | T8S | R6W | Sections: 25, 26, 27, 28, 29, 30<br>31, 32, 33, 34, 35 and 36                          |
|    | T8S | R7W | Sections: 25 and 36  |
|    | T9S | R5W | Sections: 6, 7, 8, 9, 15, 16, 17,<br>18, 19, 20, 21, 22, 23,<br>24, 25, 26, 27 and 28  |
|    | T9S | R6W | Sections: 1, 2, 3, 10, 11, 12, 13,<br>14, 15, 16, 17, 18, 19,<br>20, 21, 22, 23 and 24 |
|    | T9S | R7W | Sections: 13, 14, 23 and 24  |

(All of the above in reference to the Copper River Meridian)

- II. The area within a 1/2 mile radius of any point on the existing State of Alaska public highway system as of December 31, 1963, within the limiting points described below:

State Highway 4 between the city limits of Valdez,  
Alaska and Milepost 27 on the Richardson Highway

- III. The area within a 1 mile radius of any point on the existing State of Alaska public highway system as of December 31, 1963 within the limiting points designated in Lines A, B and C below:

Line A: State Highway 1 (Glenn Highway) westerly from Milepost 187 (Glennallen) to the common boundary of T20N R12E and T20N R11E (Seward Meridian)

Line B: State Highway 1 (Glenn Highway) northerly from Milepost 187 (Glennallen) to Mile 63 Glenn Highway, Tok Cut-off (Duffy's Service Station)

Line C: State Highway 4 from Milepost 27 (State of Alaska Road Maintenance Camp) to Milepost 185 (Paxson Lodge). Side Take Off: State Highway 10 easterly from Milepost 83 Richardson Highway (Junction of Richardson and Edgerton Highways) to a line 14.8 miles from Chitina on the Edgerton Highway to include the flat land known as Lower Tonsina.

(All of the above in reference to the Copper River Meridian  
Except as Noted)

IV. TATITLEK SERVICE AREA

T11S	R8W	Sections: SE1/4 of 19, SW1/4 of 20, W1/2 of 29, E1/2 of 30, NE1/4 of 31 and 32
T11N	R8E	Sections: 12, 13, 14, 15, 16, 21, 22, 23, 24
T11N	R9E	Sections: 6, 7, 18
T12S	R8W	Sections: Dry land portions of 5
T12N	R9E	Sections: 3, 4, 9, 10, 15, 16, 17, 20, 21, 29, 30, 31, 32
T13N	R8E	Sections: 1, 2, 11, 12, 13
T13N	R9E	Sections: 4 through 7, 14, 15, 22, 23, 26, 27, 34, 35

(All of the above in reference to the Copper River Meridian)

V. CHITINA SERVICE AREA

T4S	R5E	Sections: W3/4 of N1/2 of 24, E3/4 of N1/2 of 23, W3/4 of 13, E3/4 of 14, E3/4 of 11, and E3/4 of 2
T3S	R5E	Sections: E3/4 of 35, E1/4 of 26, W1/2 of 25, and S1/2 of SW1/4 of 24

(All the above in reference to the Copper River Meridian)

CHRONOLOGY:

Original Certificate granted 1/1/64  
First Revision issued 5/5/65 (P-64-1)  
Second Revision issued 12/31/69 (U-69-38)  
Correction of Service Area Description 11/26/71 (U-71-98(1))  
Third Revision issued 5/22/79 (U-79-36(1))  
Fourth Revision issued 11/2/82 (U-82-8(4)), 12/8/82 (U-82-8(4E))  
Fifth Revision issued 2/4/83 (U-82-8(5)), 5/5/83 (U-82-8(5E))

**Regulatory Commission of Alaska**  
**Certificate**  
**of**  
**Public Convenience and Necessity**  
**No. 11**

*Having found that the grantee of this certificate is fit, willing, and able to provide the utility services applied for and that such services are required for the convenience and necessity of the public, the Regulatory Commission of Alaska, pursuant to the authority vested in it by AS 42.05, hereby issues this certificate of Public Convenience and Necessity to*

**COPPER VALLEY TELEPHONE  
COOPERATIVE, INC.**

*authorizing it to operate a public utility, as defined by AS 42.05.990(4) (B) for the purpose of furnishing*

**TELECOMMUNICATIONS SERVICE  
(LOCAL EXCHANGE)**

*This Certificate is issued under, and subject to, the provisions of AS 42.05 and all rules, regulations, and orders from time to time promulgated by the Commission governing the rates, charges, services, facilities, and practices of utility operations of the kind authorized herein.*

*The specific nature, scope, terms, conditions, and limitations of the authority granted by this Certificate, as amended to date, are set forth in the appendix hereto and in the following order(s) of the Commission which, by this reference, are incorporated in and made a part hereof as though fully set forth herein.*

**Docket No.  
U-97-238(1)**

**Date of Order  
June 23, 1998**

**(Chronology and service area description shown on the attached Appendix A)**

*IN WITNESS THEREOF, the undersigned members of the Commission have executed this Certificate of Public Convenience and Necessity at Anchorage, Alaska on this 27<sup>th</sup> day of December 1999.*



**Regulatory Commission of Alaska**

*[Signature]*  
(CHAIRMAN)

*[Signature]*  
(COMMISSIONER)

*[Signature]*  
(COMMISSIONER)

*[Signature]*  
(COMMISSIONER)

*[Signature]*  
(COMMISSIONER)



# Regulatory Commission of Alaska

## Certificate of Public Convenience and Necessity No. 11

*Having found that the grantee of this certificate is fit, willing, and able to provide the utility services applied for and that such services are required for the convenience and necessity of the public, the Regulatory Commission of Alaska, pursuant to the authority vested in it by AS 42.05, hereby issues this certificate of Public Convenience and Necessity to*

### **COPPER VALLEY TELEPHONE COOPERATIVE, INC.**

*authorizing it to operate a public utility, as defined by AS 42.05.990(4) (B) for the purpose of furnishing*

### **TELECOMMUNICATIONS SERVICE (LOCAL EXCHANGE)**

*This Certificate is issued under, and subject to, the provisions of AS 42.05 and all rules, regulations, and orders from time to time promulgated by the Commission governing the rates, charges, services, facilities, and practices of utility operations of the kind authorized herein.*

*The specific nature, scope, terms, conditions, and limitations of the authority granted by this Certificate, as amended to date, are set forth in the appendix hereto and in the following order(s) of the Commission which, by this reference, are incorporated in and made a part hereof as though fully set forth herein.*

**Docket No.  
U-99-025(1)**

**Date of Order  
June 17, 1999**

**(Chronology and service area description shown on the attached Appendix A)**

*IN WITNESS THEREOF, the undersigned members of the Commission  
have executed this Certificate of Public Convenience and Necessity at  
Anchorage, Alaska on this 22<sup>nd</sup> day of July 2001.*

*Regulatory Commission of Alaska*

\_\_\_\_\_  
(CHAIR)

\_\_\_\_\_  
(COMMISSIONER)

\_\_\_\_\_  
(COMMISSIONER)

\_\_\_\_\_  
(COMMISSIONER)

\_\_\_\_\_  
(COMMISSIONER)

**EXHIBIT NO. 4**

**Special Contract for the Valdez-Glennallen Route and  
the Regulatory Commission of Alaska Documents Considering and Approving it**

# STATE OF ALASKA

DEPARTMENT OF COMMERCE  
COMMUNITY AND ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300  
ANCHORAGE, ALASKA 99501-3469  
PHONE: (907) 276-8222  
FAX: (907) 276-0180  
TTY: (907) 276-4533  
WEBSITE: [www.state.ak.us/rca/](http://www.state.ak.us/rca/)

May 3, 2005

In reply refer to: Tariff Section  
File: TA85-11  
LO #: L0500245

Tim Rennie  
General Manager  
Copper Valley Telephone Cooperative, Inc.  
P. O. Box 337  
Valdez, Alaska 99686

Dear Mr. Rennie:

On April 28, 2005, the Commission approved the Special Contract between Copper Valley Telephone Cooperative, Inc. (CVTC) and Copper Valley Long Distance (CVLD) filed on March 18, 2005 with TA85-11, subject to the following conditions:

- a) The Commission may place further conditions or limitations on the contract if good cause is shown based upon review of a complaint related to the dark fiber.
- b) Should the parties choose to extend the contract beyond the two year term, CVTC will submit this Special Contract extension for review by the Commission.

The Commission granted a waiver of certification requirements, to the extent necessary, to allow CVTC to sell interexchange service for the sole purpose of the TA85-11 contract even though the utility does not hold an interexchange certificate.

The Commission also reminds CVTC that the Commission has not addressed CVTC's proposed treatment of allocable costs. Treatment of allocable costs related to this special contract will be considered if and when a review of CVTC's rates occurs, absent earlier action by the Commission.

Enclosed is a validated copy of the Special Contract between CVTC and CVLD filed on March 18, 2005 with TA85-11. The effective date is May 2, 2005.

Enclosed are validated copies of Tariff Sheet Nos. 2.3, 2.26 and 2.28.1 filed on April 6, 2005 with TA85-11. The effective date of the tariff sheets is May 2, 2005.

BY DIRECTION OF THE COMMISSION

Sincerely,

REGULATORY COMMISSION OF ALASKA

*Juliana Wayman*

Juliana Wayman  
Chief, Tariff Section

Enclosures

cc: Michelle D. Barnett  
Honchen & Uhlenkott, Inc.  
800 East Dimond Blvd. Ste #3-640  
Anchorage AK 99515



**RECEIVED**

**MAR 18 2005**

*State of Alaska  
Regulatory Commission of Alaska*

**SPECIAL CONTRACT FOR DARK FIBER LEASE**

**FOR**

**COPPER VALLEY TELEPHONE  
COOPERATIVE, INC.**

**AND**

**COPPER VALLEY LONG DISTANCE, INC.**

RECEIVED

MAR 18 2005

State of Alaska  
Regulatory Commission of Alaska

**SPECIAL CONTRACT**

**DARK FIBER LEASE**

THIS SPECIAL CONTRACT ("Contract") is entered into by and between Copper Valley Telephone Cooperative, Inc. ("CVTC"), and Copper Valley Long Distance, Inc. ("CVLD"). CVLD is a wholly owned subsidiary of Copper Valley Holdings, Inc., which in turn is a wholly owned subsidiary of CVTC. This contract sets forth the terms and conditions for the lease of dark fiber from CVTC's landline network to CVLD.

The effective date of this Contract is the later date on which all of the following conditions are satisfied: (1) the Contract is executed by both parties; and (2) the Regulatory Commission of Alaska (RCA) has approved the Contract.

1. **Purpose.** The purpose of this Contract is to delineate:
  - a. a description of the facilities;
  - b. the location of the facilities;
  - c. the rates and charges for the leasing of the facilities; and
  - d. all general contractual provisions.
2. **Description of Facilities.** The subject of this contract is the lease of dark fiber by CVTC to CVLD (the "Services"). CVLD will lease four (4) strands of dark fiber from CVTC. The dark fiber extends from CVTC's Central Office (CO) in Valdez along the Richardson Highway 117 miles North to CVTC's Glennallen Central Office (CO). Service begins and ends in each of the COs and provides connections to other facilities in each of the surrounding areas.
3. **Definition.** "DARK FIBER" is fiber that has not been activated through connection to the electronics that "light" it, thereby rendering it capable of carrying communication services.
4. **Location.** The points of presence (POP's) are located in Valdez at 419 W. Egan Street and in Glennallen at Mile 188.5 of the Glenn Highway.
5. **Rates and Charges.** The rates and charges that apply to the provision of dark fiber by CVTC to CVLD pursuant to the terms of this contract are set forth in Exhibit A. In the event that the Service provided hereunder or the charges made therefore at any time become subject to any federal, state, or local regulation or tariff, then the terms and conditions of this Contract shall be deemed amended to conform to any conflicting terms and conditions in effect under such regulation or tariff, provided, however, that all non-conflicting terms and conditions of this Contract shall remain valid and effective.
6. **Billing.** CVTC shall invoice CVLD at the beginning of each month in advance of services to be rendered. Invoices are due within twenty (20) days of the date of the invoice. Each payment shall include sufficient detail so that the receiving party may

RECEIVED

MAR 18 2005

State of Alaska  
Regulatory Commission of Alaska

reasonably verify the accuracy of the payment. Payments are due by the first day of the month. Late payments shall be with interest at a rate that is the lesser of 10.5 percent per annum or the maximum legal rate of interest under applicable law.

7. **Proprietary Information.** During the term of this Contract, the parties may, but shall not be obligated to, disclose information to each other that they consider proprietary or confidential. Without specific prior written consent, except by law or court order, a party shall not disclose to any third party, including any competitors of CVLD or CVTC, any information supplied to that party by the other party under this Contract if the information was not lawfully known to the other party from a source other than a party to this Contract and consists of information bearing upon the determination of amounts payable under this Contract or consists of other information designated in writing by the supplying party as confidential. This obligation of confidentiality shall survive the termination of this Contract for any reason.
8. **Force Majeure.** The performance of a party under this Contract shall be excused to the extent that such performance is prevented by labor difficulties, governmental orders, civil commotion, acts of nature, whether conditions, and other circumstances beyond the reasonable control of the party.
9. **Notices.** All notices or other communications hereunder shall be deemed to have been duly given when made in writing and delivered in person or sent by facsimile to the receiving party, or three days after mailing by first class mail, postage prepaid, at the address listed below.

**Copper Valley Telephone Cooperative, Inc.**

Chief Executive Officer and General Manager  
Copper Valley Telephone Cooperative, Inc.  
P.O. Box 337  
Valdez, AK 99686  
Telephone: (907) 835-2231  
Facsimile: (907) 835-7813

**Copper Valley Long Distance, Inc.**

General Manager  
Copper Valley Long Distance, Inc.  
P.O. Box 1062  
Valdez, Alaska 99686  
Telephone: (907) 835-2231  
Facsimile: (907) 835-7813

Notices served by fax shall be effective upon receipt if delivery is accomplished before 5:00 p.m. local time during an ordinary business day, and shall be effective at the beginning of the next following business day if made at any time after 5:00 p.m. local time of a business day.

If notice is served by hand-delivery, it shall be effective under the same ground rules as specified above with respect to notice served by fax.

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10. **Warranties.** Neither party makes any representations or warranties to the other concerning the specific quality of the Service or facilities provided under this Contract. Both parties disclaim, without limitation, any warranty or guarantee of merchantability or fitness for a particular purpose, arising from course of performance, course of dealing, or usages of trade.
11. **Limitation of Liability.** Neither party shall be responsible to the other for any indirect, special, consequential or punitive damages, including (without limitation) damages for loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted, or done hereunder, whether arising in contract or tort, provided that the foregoing shall not limit a party's obligation under Section 12 to indemnify, defend and hold the other party harmless against amounts payable to third parties or for damages to premises or equipment.
12. **Indemnification.** Each party agrees to reimburse the other party for damages to premises or equipment resulting from a party's negligence in the installation, maintenance or removal of facilities, services or arrangements. To the extent not prohibited by law, each party shall at the other's request indemnify, defend and hold harmless the other party and each of its officers, directors, employees and agents from any and all claims by any third party for actual or alleged infringement of any patent, copyright, trademark, service mark, trade name, trade dress, trade secret or any other intellectual property right now known or later developed to the extent that such claim or action arises from the indemnifying party's or the indemnifying party's customers' use of either party's services. CVLD agrees to indemnify and hold harmless CVTC from all claims by CVLD's customers or subscribers arising from CVLD's discontinuance of its services to one of its subscribers or customers.
13. **Term.** This Contract shall have an initial term of two years, and shall automatically be renewed from year to year until terminated in accordance with Section 15 below.
14. **Governing Law and Venue.** The validity, construction, and performance of this Contract shall be governed by and interpreted in accordance with laws of the State of Alaska. Any lawsuit brought to enforce this Contract, or otherwise arising from this Contract, shall be brought in the Superior Court for the State of Alaska in Anchorage, or in an Anchorage federal court.
15. **Termination.** This Contract may be terminated by either party upon ninety (90) days written notice or at any other time mutually agreed upon by the parties in writing. The Contract may also be terminated by either party for repeated or willful material violation or refusal to comply with the provisions of this Contract, including payment provisions, if a party has failed to cure such violation or refusal within thirty (30) days following the defaulting party's receipt of written notice of the violation or refusal. This Contract shall immediately terminate upon the suspension, revocation or termination of either party's

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authority to provide services or upon either party's insolvency, inability to pay debts as they mature, or has a trustee or receiver or officer of the court appointed to control or supervise all or any substantial part of its assets or business.

16. **Nonwaiver.** No waiver of any provisions of this Contract and no consent to any default under this Contract shall be effective unless it is in writing and properly executed by or on behalf of the party against whom such waiver or consent is claimed. No course of dealing or failure of any party to strictly enforce any term, right, or condition of this Contract in any instance shall be construed as a general waiver or relinquishment of such term, right or condition. Waiver by either party of any default by the other party shall not be deemed a waiver of any other default.
17. **Assignment.** Except as provided in this Section, any assignment by either party of any interest right, obligation or duty under this Contract, in whole or in part, without the written consent of the other party shall be void. Such written consent shall not be unreasonably withheld or delayed. With written notification, either party may assign all or part of its rights and obligations to any legal entity that is a subsidiary or affiliate of that party without consent. All obligations, duties and rights of any party under this Contract shall be binding on all successors in interest and assigns of such party.
18. **Compliance with Laws.** Nothing in this Contract shall be deemed an admission by either party hereto that any provision of state or federal law has been complied with, nor shall such Contract, or any portion thereof, be deemed a waiver of any rights or remedies that either party may have under state or federal law.
19. **Entire Contract.** This Contract and all appendices and amendments embody the entire Contract of the parties. There are no promises, terms, conditions, or obligations other than those set forth herein. This Contract supersedes all previous communications, representations, or contracts, whether oral or written, between the parties.
20. **Modifications.** This Contract shall only be amended, modified or changed in writing, executed by an authorized representative of the parties, with the same formality as this Contract was executed and such writing shall be attached to this Contract as an appendix.
21. **Severance.** In the event a portion of this Contract is held to be unenforceable or inapplicable, that portion shall be severed from the Contract and the remainder shall continue in full force, provided, however, that if the severing of a provision makes this Contract in its entirety impossible to perform, the Contract shall be terminated.
22. **Construction.** This Contract shall not be construed either in favor or against either party, regardless of which party drafted the Contract or specific language within the Contract.



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23. **No Third Party Beneficiaries.** The provisions of this Contract are for the benefit of the parties hereto and not for any other person. This Contract shall not confer upon any person not a party hereto any right, benefit or interest of any sort.
24. This contract, as filed with the RCA, and pursuant to 3 AAC 48.390, is, at all times, subject to revision by the RCA.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates shown below:

Copper Valley Telephone Cooperative, Inc.

By: *Garry Wharves*

Its: *Board President*

Date: *3/18/05*

Copper Valley Long Distance, Inc.

By: *Martin R. Harwood*

Its: *Board President*

Date: *3-18-05*